



**U.S. Department of the Interior
Office of Inspector General**

AUDIT REPORT

**U.S. FISH AND WILDLIFE SERVICE
FEDERAL AID GRANTS TO
THE STATE OF COLORADO
FOR FISCAL YEARS 1994 AND 1995**

**REPORT NO. 98-E-198
JANUARY 1998**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

JAN 21 1998

MEMORANDUM

TO: The Secretary
FROM: Robert J. Williams *Robert J. Williams*
Acting Inspector General

SUBJECT SUMMARY: Final Audit Report for Your Information - "U.S. Fish and Wildlife Service Federal Aid Grants to the State of Colorado for Fiscal Years 1994 and 1995" (No. 98-E-198)

Attached for your information is a copy of the subject final audit report. The objective of our audit, which was requested by the U.S. Fish and Wildlife Service, was to determine whether: (1) costs claimed by the State of Colorado's Division of Wildlife, Department of Natural Resources, were eligible for reimbursement; (2) fishing and hunting license revenues were used for administration of the State's fish and wildlife agency; and (3) the Division met the minimum annual requirements for spending State funds on sport fish activities.

We concluded that the Division had met the minimum annual spending requirements for sport fish activities. However, we questioned costs of \$4,842 claimed by the Division for a temporary hire because the costs were not adequately supported. We also found that the Division did not ensure that properties purchased with license revenues and leased to other State agencies and entrance fees of at least \$1.2 million collected by those agencies were used for fish and wildlife program purposes as required by the Sport Fish and Wildlife Restoration Acts. Furthermore, the State funded activities that we believe may not have met the requirements or intent of the Restoration Acts. Specifically, the State spent license revenues on measures to prevent damage from predatory animals and to reimburse landowners for damage caused by those animals. In addition, we found that the Division did not have adequate administrative controls to ensure that income earned on the disposal of excess property was remitted to the Division and that payroll records for the Federal Aid Coordinator were processed in a timely manner.

Based on the Service's response, we considered one of the report's eight recommendations resolved and implemented, three recommendations resolved but not implemented, and four recommendations unresolved. We requested the Service to reconsider its response to the unresolved recommendations.

If you have any questions concerning this matter, please contact me at (202) 208-4252.

Attachment



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

C-GR-FWS-030-96

10/13/1998

AUDIT REPORT

Memorandum

To: Regional Director, Region 6,
U.S. Fish and Wildlife Service

From: Robert J. Williams *Robert J. Williams*
Assistant Inspector General for Audits

Subject: Audit Report on U.S. Fish and Wildlife Service Federal Aid Grants to the State of Colorado for Fiscal Years 1994 and 1995 (No. 98-E-198)

INTRODUCTION

This report presents the results of our audit of U.S. Fish and Wildlife Service Federal aid grants to the State of Colorado for fiscal years 1994 and 1995. The objective of our audit, which was requested by the Service, was to determine whether: (1) costs claimed by the State's Division of Wildlife, Department of Natural Resources, were eligible for reimbursement; (2) fishing and hunting license revenues were used for the administration of the State's fish and wildlife agency; and (3) the Division met the minimum annual requirements for spending State funds on sport fish activities.

BACKGROUND

The Service awards grants to states for the enhancement of state sport fish and wildlife resources under the authority of the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669). To be eligible for these grants, states must agree to comply with all of the provisions of the Restoration Acts. One of these provisions requires the states to enact legislation that includes a prohibition against the use of revenues from the sale of fishing and hunting licenses for any purpose other than the administration of the states' fish and game department. Also, the 1984 Wallop-Breaux amendment to the Sport Fish Restoration Act requires the Division of Wildlife, which administers the Service's grants, to spend annually State funds of at least \$6,364,731 (which could include state fishing and hunting license revenues) on sport fish activities.

The grant agreements with the State of Colorado provided that the Division would be reimbursed for up to 75 percent of the eligible costs incurred on approved Federal aid projects. In fiscal years 1994 and 1995, the Division recorded fish and wildlife program expenses of about \$60 million and \$63 million, respectively. Also, the Division received grant reimbursements from the Service of about \$10.3 million in fiscal year 1994 and \$7.5 million in fiscal year 1995.

The Grants and Contracts Section of the State's Department of Natural Resources provides accounting services for the Division. Fishing and hunting license revenues, reimbursements under the Federal aid grants, other associated revenues, and all Division expenditures are maintained and accounted for in separate funds.

SCOPE OF AUDIT

To accomplish our objective, we evaluated the adequacy and reliability of the Division's processes for collecting and disbursing license fees, the adequacy of the Department's accounting system to determine whether the system can be relied upon to accurately accumulate and report actual costs charged to the grants, and the accuracy and the eligibility of the costs claimed under the grants. On a test basis, we examined evidence supporting the amounts of salary costs charged to the grants for a 1-year period and interviewed employees and their supervisors to ensure that all personnel costs charged to the grants were supportable. We also reviewed other selected costs claimed by the Division for fiscal years 1994 and 1995 (July 1, 1993, through June 30, 1995) under the Restoration Acts' grants from the Service. When questioned costs were identified, we determined whether similar costs were claimed for the entire period of fiscal years 1991 through 1996, as requested by the Service. We also reviewed the Division's use of fishing and hunting license revenues to determine whether the revenues had been used for program purposes and reviewed the Division's expenditures to determine whether the State spent at least \$6,364,731 annually (the Wallop-Breaux amendment funding requirement) on sport fish activities. At the request of the Service, we reviewed certain types of leases to determine whether the properties were used for purposes that are consistent with the State's fish and wildlife program.

We did not review the internal controls over the accounting system of the Grants and Contracts Section, Department of Natural Resources, because such reviews are conducted under the single audit provisions of Office of Management and Budget Circular A-128, "Audits of State and Local Governments." A single audit report issued on November 15, 1995, identified some reportable conditions but concluded that none of those conditions constituted a material weakness. During our audit, we evaluated the adequacy of internal controls over the Division's operations and found that the Division needed to implement additional controls over leases and income earned on leases of Division real property purchased with license revenues. Our recommendations, if implemented, should improve the internal controls in this area.

Our audit was performed in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the

circumstances. We did not evaluate the economy, efficiency, and effectiveness of the Division's operations. Our audit was performed at the Colorado Division of Wildlife headquarters in Denver, Colorado, and wildlife area offices in Denver, Grand Junction, Montrose, Colorado Springs, Buena Vista, Fountain, and Pueblo, Colorado. We also contacted Division personnel in Loveland, Lamar, and Salida, Colorado, and Division of Parks and Outdoor Recreation personnel in Golden and Denver, Colorado, to obtain information regarding real property leased from the Division.

PRIOR AUDIT COVERAGE

During the past 5 years, neither the Office of Inspector General nor the General Accounting Office has issued any reports on the State of Colorado's fish and wildlife program activities.

RESULTS OF AUDIT

In regard to the Wallop-Breaux amendment to the Sport Fish Restoration Act, we found that the State of Colorado had met its financial contribution requirement. However, we questioned costs of \$4,842 claimed by the State's Division of Wildlife for fiscal year 1995 under a U.S. Fish and Wildlife Service Federal aid grant. We also found that, despite requirements in the Restoration Acts that State hunting and fishing license revenues and any income earned on those revenues should be used solely for fish and wildlife programs, the Division did not maintain control and oversight of real property purchased with license revenues to ensure that: (1) these properties were used for program purposes and (2) income of at least \$1.2 million from entrance fees and other charges for the use of these lands were used for fish and wildlife program purposes. Furthermore, the State funded activities that we believe may not have met the requirements or intent of the Restoration Acts. Specifically, the State spent license revenues on measures to prevent damage from predatory animals, to reimburse landowners for damage caused by those animals, and to control weeds on properties leased or owned by the Division.

Questioned Costs

We questioned costs of \$4,842 (of which \$3,632 was the Federal share) that were charged to the Federal Aid Coordination project for a temporary hire. Payments to an employment agency for the services of the temporary employee were documented; however, the work performed and the duties and responsibilities of the employee were not documented. Because the grant that financed the temporary employee provided for one Federal aid coordinator and no documentation was prepared to show that additional staff assistance (the temporary hire) was needed, we questioned the need for and the expense of the temporary employee.

License Revenues

The Restoration Acts require states that receive Federal aid grants to pass laws which incorporate provisions of the Acts, including "a prohibition against the diversion of license

fees . . . for any purpose except the administration of said State fish and game department.” (Emphasis added.) The Code of Federal Regulations (50 CFR 80.3) states that passage of such “assent legislation” is required for a state to receive Federal aid grants, and Part 80.4(b) of the Code defines the administration of a state’s fish and game agency as “only those functions required to manage the fish and wildlife-oriented resources of the State for which the agency has authority under State law.”

Although the State enacted legislation in 1939 and 1951 that included provisions required by the Acts concerning the use of license revenues, the Division did not ensure that license revenues were used solely for administration of the State’s fish and game department. Specifically, we found that real property acquired with license revenues was not managed or operated by the Division to ensure proper use; revenues which were earned on these properties were not remitted to the Division as required by the Code of Federal Regulations; and certain activities such as animal damage control, which may be inconsistent with fish and wildlife program purposes, were financed with license revenues.

Leased Property. The Division did not ensure that real property acquired with license revenues and leased to other State agencies or to a private organization was used to meet the Restoration Acts’ objective of enhancing fish and wildlife resources. Since 1972, the Division has leased to other parties properties that were acquired with license revenues and that were bought for fishing and hunting uses and for fish and wildlife habitat. While most of the approximately 600 leases¹ (including easements for utility lines) did not negatively impact fish and wildlife activities, some of the leases provided for uses of the property that may have been inconsistent with the objectives of the Restoration Acts. Based on the Service’s concern about the use of certain properties, we selected 14 leases for review. Of these 14 leases, we found that the Division did not maintain adequate control or oversight to ensure that 10 leased properties (9 of which were leased to the State’s Division of Parks and Outdoor Recreation and 1 of which was leased to a nonprofit organization) were used in accordance with program objectives and that the 4 other leases provided for property use that was compatible with the State’s fish and wildlife program.

The Division issued nine, 25-year no-cost leases (seven in 1972 and two in subsequent years) to the State’s Division of Parks and Outdoor Recreation. (Before 1972, the Division and Parks and Outdoor Recreation were one entity.) Although the leases stated that the properties were to be governed by management plans prepared by the Division and approved by Parks and Outdoor Recreation, the Division could not document that the plans had been prepared or that the Division was formally monitoring the use of these lands. As such, there was no assurance that the properties were used in accordance with the objectives of the Restoration Acts.

We found that for most of the nine leases, Parks and Outdoor Recreation was operating the lands as parks and collecting entrance fees from anglers and hunters and use fees from campers and picnickers (see Appendix 2). Parks and Outdoor Recreation had made several

¹The Division did not have a complete listing of all current leases.

modifications to enhance the recreational use of these areas, including construction of campgrounds and related facilities, visitor and interpretive centers, hiking trails, picnic areas, maintenance shops, housing for temporary employees, and an amphitheater. However, we found no documentation that Division personnel had reviewed and approved these modifications or had ensured that the properties were maintained and operated in a manner that was consistent with the objectives of the Restoration Acts. For example:

- Parks and Outdoor Recreation had banned hunting on one parcel that was leased from the Division. In a December 1, 1989, letter to Parks and Outdoor Recreation, the Division expressed "extreme disappointment" that this action had been taken and noted "the apparent absence of both public input and input from the Division of Wildlife prior to the decision [to ban hunting]." Nonetheless, Parks and Outdoor Recreation maintained the ban on hunting.
- A parcel of land that was leased by the Division to Parks and Outdoor Recreation was used for year-round camping, hiking, and horseback riding, and a visitor and interpretive center was built on the land. A Division biologist said that such use of the land, in her opinion, adversely affected wildlife habitat.

- The Division and Parks and Outdoor Recreation each owned an undivided half interest in 937 acres of property in the Rifle Gap State Recreational Area, near Rifle, Colorado. The property was purchased with license revenues and Parks and Outdoor Recreation funds. In 1972, the Division leased its interest in the property to Parks and Outdoor Recreation for a 25-year period. In 1986, Parks and Outdoor Recreation deeded 24 acres of this property to the State's Department of Corrections to build the Rifle Correctional Center, a purpose that, in our opinion, was clearly unrelated to the management of the fish- and wildlife-oriented resources of the State. At the time of our review, the Division and Parks and Outdoor Recreation were in the process of dividing the land, with Parks and Outdoor Recreation receiving the portion occupied by the prison. We believe that the Service needs to ensure that conversion of a portion of the land to prison use does not adversely affect the remaining land's usefulness as a wildlife resource.

We also found one instance in which the Division leased land to an organization that, in our opinion, used the property for purposes which were not in accordance with the Restoration Acts' objectives. Specifically, on August 16, 1978, the Division leased land purchased with license revenues to a private nonprofit organization for a rental fee of \$1 per year for a 25-year period. The property was used for camping, volleyball, horseshoes, picnicking, fishing, wedding ceremonies, and family reunions. According to a Division manager, the riparian areas were adversely affected by camping activities. The area was fenced, even though it was surrounded by other Division property.

To ensure that properties purchased with license revenues are used for fish and wildlife purposes, the Service should require the Division to provide adequate control and oversight of leased properties. Furthermore, the Service should review the current uses of these properties and determine whether the uses are consistent with the Division's fish and wildlife program objectives. If the Service determines that such uses are not in accordance with program objectives and that the properties acquired with license revenues have been diverted

to unauthorized uses, it should require the State to comply with the applicable provision of the Code of Federal Regulations (50 CFR 80.4 (d)(2)). This provision states that the property should be restored to uses consistent with the State's fish and wildlife program or "an amount equal to license revenues diverted or current market value" should be returned and made "available for use of the State fish and wildlife agency."

Income From Land Purchased With License Revenues. The Code of Federal Regulations (50 CFR 80.4) requires that income earned on license revenues be used by a state solely for its fish and wildlife program. Parks and Outdoor Recreation, however, earned income (entrance and use fees) on properties purchased with license revenues but did not remit this income to the Division as required. We identified seven leased properties on which Parks and Outdoor Recreation charged visitors an entrance fee of \$3 and other use fees and one property on which the lessee (a private nonprofit organization) levied various charges for the use of the property. At six of the seven properties leased to Parks and Outdoor Recreation, entrance fees of \$1.2 million and revenues of \$250,000 from the sale of annual passes (which permit entrance to all parks in the State) were collected from fiscal years 1994 through 1996 (see Appendix 2). The State provided no information on the amounts collected at the seventh park or at any of the parks during the period before 1994. We believe that the Service should ensure that entrance fees and other revenues generated on Division properties which are leased to other parties are remitted to the Division and are used for administering the State's fish and wildlife programs.²

Control of and Reimbursement for Damage Caused by Predatory Animals. Section 33-3-107 of the Colorado Revised Statutes requires the Division to pay for damage caused by predator-v animals. (The section was enacted in 1931, before enactment of the Restoration Acts. j In addition, Section 33-3-1 03 of the Colorado Revised Statutes provides for the payment for materials to prevent damage caused by "big game animals." Accordingly, from fiscal years 1991 through 1996, license revenues from the Division totaling \$3,247,846 (see Appendix 3) were used for compensating landowners for damage caused by predatory animals and for paying for damage control materials and other damage control activities as follows:

- License revenues of \$2,536,419 were used for payments to ranchers and farmers for damage caused by bears, lions, elk, and deer to livestock, crops, and personal property and for damage control materials such as fencing to prevent wildlife from destroying or damaging farm animals and crops.
- The Division paid Colorado State University \$352,227 for research and public education on wildlife damage control and for teaching a college course on the subject.

²At Golden Gate Canyon State Park, the property was purchased with both Division license revenues and Parks and Outdoor Recreation funds. As such, only a proportional share of the entrance fees at this park should be remitted to the Division. Also, because annual passes provide entrance to all State parks, only a proportional share of the annual pass revenues of \$250,000 should be remitted to the Division.

- The Division paid \$199,600 to the U.S. Department of Agriculture to help control damage caused by wild animals, especially bears and mountain lions, “injurious to agriculture, animal husbandry and public health and safety” and also financed the capture/killing of the offending animals. In that regard, we noted that Agriculture periodically sold the bear and lion hides and gave the proceeds (\$2,200 in fiscal years 1995 and 1996) to the State’s Department of Agriculture, even though the Division funded this activity and therefore should have received the proceeds.

- The Division paid the State’s Department of Agriculture \$159,600 to establish a program to address the needs of landowners and land managers who were having problems with rodents, predators, or other wildlife.

On April 12, 1996, the State enacted legislation that, according to the Governor of Colorado, clarified “the authority the Wildlife Commission and the Department of Agriculture have concerning the control of animals that prey on or damage livestock and agricultural products [depredating animals].” The legislation gave Agriculture exclusive jurisdiction over the control of these animals, except those animals that are “at risk.”¹³ The Division was assigned a consultative role in establishing rules and methods of controlling depredating animals and exclusive authority over the designation of “at risk” species. The legislation also provided for the Division to provide assistance, including financial support, at its discretion to carry out provisions of the law.

We believe that the State program to control and provide reimbursement for damage caused by depredating animals, when financed by the Division with license revenues, could constitute an unauthorized use of these funds. Such a program would likely be conducted under rules and regulations promulgated by Agriculture and therefore might serve agricultural rather than fish and wildlife program interests.

In July 1996, a Service official reviewed the legislation and wrote to the Division that “the language in the State statutes and its consistency with Federal Aid rules and regulations regarding diversion may require a legal interpretation.” We believe that the Service should request the Solicitor to issue an opinion as to whether the State’s law is in accordance with provisions of the Restoration Acts. Specifically, the Solicitor should be requested to determine whether the State’s use of license revenues to pay for the control and reimbursement of damage from depredating or predatory animals and related activities is an appropriate use of the license revenues.

Weed Control. On June 3, 1996, the State enacted House Bill 96-1014, which required the Division to pay for weed control on properties leased or owned by the Division. Because State agencies other than the Division will be involved in determining weed control requirements, the Division may be required to pay for weed control that does not benefit fish and wildlife program objectives. To preclude the use of license revenues for inappropriate purposes, we believe that the Service should request a formal opinion from the Solicitor on

¹³“At risk” means any depredating animal species that has been designated as endangered or threatened by the Colorado Wildlife Commission.

whether the use of license revenues for weed control activities benefits the State's fish and wildlife program as required by the Restoration Acts.

Administrative Controls

We found that the Division did not have adequate administrative controls to ensure that income earned on the disposal of excess property was remitted to the Division and that payroll records for the Federal Aid Coordinator were processed in a timely manner.

Excess Property. In fiscal years 1994 and 1995, the Division transferred 351 items of excess personal property to the State's surplus property agency, which sold or disposed of the property without remitting the proceeds to the Division. This property consisted of items such as typewriters, mobile radios, computers, desks, and chairs. The Code of Federal Regulations (50 CFR 80.4) requires that income earned on grant funds or license revenues (in this instance, the sale of excess property) be used by the state solely for fish and wildlife program purposes. The State, however, did not maintain records on the proceeds from the sale of excess Division property. As such, we could not determine the amount of income, if any, from the sale of excess property that should have been remitted to the Division.

Payroll Expenses. Although we did not question the salary amount recorded for the Division's Federal Aid Coordinator, we found that the Coordinator's time and attendance records had not been processed properly. Division procedures require that time sheets be submitted by the third working day after the month's end. The Coordinator, however, made one submission of time sheets for all work performed from July 1994 through April 1995. As such, we believe that the Service should require the Division to strengthen its controls to ensure that time sheets are submitted in a timely manner.

Recommendations

We recommend that the Regional Director, Region 6, U.S. Fish and Wildlife Service:

1. Initiate action to resolve the unsupported questioned costs of \$4,842 (Federal share \$3,632). Specifically, the Service should determine whether a need existed for additional staff to coordinate Federal aid projects during the period in which the questioned costs were incurred for the temporary hire.
2. Require the Division of Wildlife to provide adequate control and oversight of its leased properties.
3. Determine whether current uses of the leased properties serve fish and wildlife program purposes and, if a determination is made that the uses do not serve fish and wildlife program purposes, require the Division of Wildlife to comply with the Federal regulation governing diversions of program assets (50 CFR 80.4 (d)(2)).
4. Determine the amount of entrance or use fees that was collected during fiscal years 1991 through 1996 at license revenue-funded properties leased to other State and private

organizations and ensure that these revenues and all future entrance and use fees attributable to the Division's proportional interest in the properties are remitted to the Division and used for fish and wildlife program purposes.

5. Request opinions from the Office of the Solicitor on the propriety of the State's use of license revenues for the control of and reimbursement for damage caused by predatory or depredating animals and for related activities and on the propriety of the State's use of license revenues for weed control.
6. Require the State to reimburse the Division of Wildlife for the proceeds from the sale of bear and lion hides (\$2,200) that were given to the State's Department of Agriculture.
7. Require the State to account for future income from the sale of the Division of Wildlife's surplus property and to remit such income to the Division. Also, the State agencies should be required to determine the value of surplus property transferred to other State agencies and to compensate the Division of Wildlife for such property transfers.
8. Require the Division of Wildlife to ensure that the Federal Aid Coordinator's time sheets are prepared and submitted in a timely manner.

U.S. Fish and Wildlife Service Response and Office of Inspector General Reply

In the October 17, 1997, response to the draft report (Appendix 4) from the Regional Director, U.S. Fish and Wildlife Service, Region 6, the Service generally concurred with the report's eight recommendations and provided, as attachments, additional information from the Division of Wildlife. After reviewing the additional information provided with the response, we revised the applicable portions of the finding and Recommendations 1, 3, and 7. Based on the response, we consider Recommendation 8 resolved and implemented; Recommendations 2, 3, and 4 resolved but not implemented; and Recommendations 1, 5, 6, and 7 unresolved. Accordingly, the unimplemented recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation, and the Service is requested to reconsider its response to the unresolved recommendations (see Appendix 5).

Recommendation 1. Concurrence stated.

U.S. Fish and Wildlife Service Response. In our draft report, we recommended that the Service initiate action to resolve questioned costs of \$112,121, which consisted of indirect costs of \$108,389, an airfare cost of \$134, and the costs for a temporary hire of \$4,842. In its response, the Service requested that we review additional supporting documentation that was provided by the Colorado Division of Wildlife.

Office of Inspector General Reply. Based on our review of the additional supporting documentation, we concluded that the indirect costs were a proper charge to the Federal grants and determined that the airfare cost was later reversed in the accounting records.

Accordingly, we deleted the portion of the finding related to these costs and revised the recommendation. In addition we clarified the portion of the finding pertaining to the need for a temporary hire for the Federal Aid Coordination grant. Therefore, the Service is requested to determine whether the temporary employee was needed to assist in the coordination of Federal grants and to respond to the revised recommendation.

Recommendation 3. Concurrence indicated.

U.S. Fish and Wildlife Service Response. The Service said that the recommendation “as written appears to be inconsistent with the regulations” and requested that the recommendation be revised. In the draft report, we recommended that the Service direct the State to terminate leases that did not serve State wildlife program purposes and reinstate the properties as wildlife areas or obtain equitable compensation for properties diverted to nonwildlife purposes.

Office of Inspector General Reply. Based on the response, we revised the report and the recommendation to cite the specific provision (50 CFR 80.4 (d)(2)) of the Code of Federal Regulations that relates to the diversion of license revenues.

Recommendation 5. Concurrence stated.

U.S. Fish and Wildlife Service Response. The Service said that on September 23, 1997, it obtained a Solicitor’s opinion on the propriety of the State’s use of license revenues for the control of and reimbursement for damage caused by predatory and depredating animals. In the opinion, the Solicitor said that “as long as payments for wildlife damage are consistent with the administration of the DOW [Division of Wildlife],” use of license revenues would be authorized. The Solicitor added that if the Division’s activities were “controlled” or “thwarted” by another party (“in this example by the State Department of Agriculture”), the Division “should not pay damages with license revenues.” In an informal opinion issued on October 7, 1997, which was referenced in the response, the Service’s Regional Solicitor wrote that license revenues can only be used “to control predators for legitimate wildlife purposes” and that “using license revenues to control predators to protect agriculture and livestock interests constitutes a violation of regulations.” Based on these opinions, the Service concluded that “this issue requires further review” and stated that it would refer this matter to a national committee that was “formed to review and recommend changes to Federal Aid regulations and policies concerning animal damage management issues.” The Service also stated that the Solicitor’s informal opinion found that the use of license revenues for weed control purposes was “proper for the State.”

Office of Inspector General Reply. Since this recommendation will have national implications when implemented, we agree with the Service’s plan to refer the matter pertaining to the use of license revenues for predator control and damage reimbursement to a national committee for further review. In addition, although the Service obtained an informal opinion from the Solicitor on the use of license revenues for weed control purposes, it did not obtain a formal opinion, which we consider necessary for the Service’s policy-

making decision on this matter. As such, the Service is requested to respond by identifying further actions it plans to take to fully resolve the recommendation.

Recommendation 6. Concurrence stated.

U.S. Fish and Wildlife Service Response. The Service said that “final resolution of this recommendation will be tied to the resolution of Recommendation #5.”

Office of Inspector General Reply. The Service did not specifically agree to request reimbursement from the State for the proceeds from the sale of bear and lion hides. Therefore, we consider the recommendation unresolved, and the Service is requested to reconsider its response to the recommendation.

Recommendation 7. Concurrence indicated.

U.S. Fish and Wildlife Service Response. In its response, the Service included documentation provided by the Division of Wildlife on the disposition of the Divisions surplus property, which it asked us to review. According to the documentation, the State sells surplus property in commingled lots with individual items “not tracked separately.” Further, Division documentation stated that surplus property may be transferred to other State agencies, abandoned, or destroyed and that State law “requires the transfer of these items [surplus property] to the State Surplus Property Agency.”

Office of Inspector General Reply. We revised the recommendation to address the additional issue of property transferred to other State agencies, as discussed in documentation submitted by the Division of Wildlife with the Service’s response. The documentation showed that the State does not have procedures for tracking the disposition (sale, transfer to another State agency, or disposal/abandonment) of surplus property that had been purchased with Federal grant funds or license revenues or for recording the proceeds from the sales or the value of transferred property. We believe that the Service should ensure that the State establishes such procedures and compensates the Division for this property in the future in accordance with the Service’s policies and applicable Federal regulations. Accordingly, we consider the recommendation unresolved, and the Service is requested to reconsider its response to the revised recommendation.

In accordance with the Departmental Manual (360 DM 5.3), please provide us with your written comments to this report by February 17, 1998. The response should provide the information requested in Appendix 5.

The legislation, as amended, creating the Office of the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the assistance of Fish and Wildlife Service personnel in the conduct of our audit.

CLASSIFICATION OF MONETARY AMOUNTS

<u>Description</u>	<u>Questioned Costs (Federal Share)</u>	<u>Potential Additional Revenues</u>
Personnel (Unsupported costs)	\$3,632	
Program Income (Fiscal Years 1994- 1996)		\$1,450,000*

*Program income consists of entrance fee receipts of \$1.2 million and annual pass revenues of \$250,000 that were collected during fiscal years 1994 through 1996 at parks financed with the Division's license revenues. However, at Golden Gate Canyon State Park, the property was purchased with both Division license revenues and Parks and Outdoor Recreation funds. As such, only a proportional share of the fees at this park and other such parks should be remitted to the Division of Wildlife.

DIVISION OF WILDLIFE LEASES

The Division of Wildlife leased properties purchased with license revenues to other State of Colorado agencies and other parties. This appendix provides a description of nine leases that the Division entered into with the State's Division of Parks and Outdoor Recreation. These leases were issued in 1972 for a 25-year period unless noted otherwise. Also, all properties leased to Parks and Outdoor Recreation required a management plan that was to be prepared by the Division and agreed to by Parks and Outdoor Recreation. However, we found no record of these management plans in the Division's files. At seven of the nine leased properties, visitors were charged entrance and use fees totaling \$1.2 million and visitors paid \$250,000 for annual passes to all State parks; however, the Division did not receive its proportional share of this income. The nine leases are as follows:

- Rifle Gap State Recreation Area Lease. This property was purchased with Division license revenues and Parks and Outdoor Recreation funds, with each party owning an undivided half interest. In 1986, Parks and Outdoor Recreation deeded 24 of the 937 acres of land to the Department of Corrections to build the Rifle Correctional Center. During our review, the Division and Parks and Outdoor Recreation were dividing the land, with Parks and Outdoor Recreation getting the portion of land on which the Correctional Center is located.

- Rifle Falls Lease. This property was purchased with Division license revenues. Activities at Rifle Falls included year-round camping, picnicking, hiking, fishing, photography, wildlife programs, and wildlife observation. The park had cooking grills and fire pits. Rifle Falls charged visitors either a \$3 entrance fee or an annual pass fee and fees for various camping activities. In fiscal years 1994 through 1996, Parks and Outdoor Recreation collected entrance fees of \$176,953 and annual pass fees of \$42,772 at the Park.

- Golden Gate Canyon State Park Lease. This property was purchased with Division license revenues and Parks and Outdoor Recreation funds. Activities on the property included hunting, year-round picnicking, year-round camping, hiking, fishing, biking, horseback riding, cross-country skiing, and snowshoeing. The Park also had nature trails, cooking grills and fire pits, toilets, maintenance shops, a visitor and interpretative center with offices, and places where wildlife-related materials were sold. The Park charged visitors a \$3 entrance fee or an annual pass fee, camping fees, and group fees for picnic areas and received income for a horseback riding concession and vending machines. In fiscal years 1994 through 1996, Parks and Outdoor Recreation collected entrance fees of \$364,204 and annual pass fees of \$72,005 at the Park.

- Steamboat Lake Lease. This property was purchased with Division license revenues. Activities at the Lake included hunting, year-round camping, boating, and lectures. The Lake

had a Parks and Outdoor Recreation building, visitor center, maintenance shop, temporary housing for summer employees, water and sewer facilities, boat ramps, marina concession, and an amphitheater in which the Division made wildlife presentations. The Lake charged visitors a \$3 entrance fee or an annual pass fee and a camping fee. The State provided no information on the amount of collections at the Lake.

- San Luis Lake State Wildlife Area Lease. The Division obtained a right-of-way from the State Board of Land Commissioners to use this property for operating and maintaining a wildlife management area. The Division used license revenues to pay the Board \$175,000 for the right-of-way. On July 1, 1987, the Division leased the property to Parks and Outdoor Recreation for a period of 20 or more years. Activities at the Area included fishing, camping, wetlands preservation, hunting, swimming, sailing, wildlife observation, hiking, and picnicking. The Area consisted of 2,054 acres, including a 90-acre lake, with hunting permitted on about 900 acres. The Area contained a Parks and Outdoor Recreation building, an entrance station, a boat house, a maintenance shop, a boat ramp, electrical hookups, showers, toilets, a laundry, and a residence built in 1992. Parks and Outdoor Recreation charged visitors a \$3 entrance fee or an annual pass fee and a camping fee. In fiscal years 1994 through 1996, Parks and Outdoor Recreation collected entrance fees of \$49,386 and annual pass fees of \$4,790 at the Wildlife Area.

- Highline State Recreation Area Lease. This property was purchased with Division license revenues and Federal aid. The lease was effective on July 1, 1987, for a period of 20 years. Activities at the Area included fishing, camping, boating, waterfowl hunting, swimming, and wildlife observation. The Area also contained a Parks and Outdoor Recreation entrance station and maintenance/office building. Because most of the property consisted of a reservoir, no big game hunting was possible. Visitors were charged a \$3 entrance fee or annual pass fee and a camping fee. In fiscal years 1994 through 1996, Parks and Outdoor Recreation collected entrance fees of \$166,775 and annual pass fees of \$3 1,760 at the Recreation Area.

- Jackson Lake State Recreation Area Lease. This property was purchased with Division license revenues and Federal aid funds. Activities at the Area included high-speed boating, water skiing, wind surfing, swimming, sailing, camping, hiking, wildlife observation, and small game hunting. The Area consisted of a Parks and Outdoor Recreation entrance station, a headquarters building, maintenance shops, a boat ramp, electrical hookups, showers, toilets, a snack concession, boat rentals, and a trailer dump station. Visitors were charged a \$3 entrance fee or an annual pass fee and a camping fee. In fiscal years 1994 through 1996, Parks and Outdoor Recreation collected entrance fees of \$242,199 and annual pass fees of \$54,829 at the Recreation Area.

- Barbour Ponds Lease. This property was purchased with Division license revenues. While fishing and camping were permitted at the Ponds, Parks and Outdoor Recreation had

discontinued hunting at the site. Parks and Outdoor Recreation maintained an entrance station, shelters, and toilets on the property. Visitors were charged a \$3 entrance fee or an annual pass fee and a camping fee. In fiscal years 1994 through 1996, Parks and Outdoor Recreation had collected entrance fees of \$214,442 and annual pass fees of \$47,170 at the Ponds.

- Sawhill Ponds Lease. The property was purchased with Division license revenues, was leased to Parks and Outdoor Recreation, and was subleased to the City of Boulder, Colorado. The land was not suitable for hunting because of its proximity to a residential area. The property was used as a wildlife habitat and for fishing.

COLORADO DIVISION OF WILDLIFE
SCHEDULE OF PREDATOR DAMAGE
AND CONTROL PAYMENTS

<u>Year</u>	<u>Predator Damage</u>	<u>Colorado State University</u>	<u>U.S. Department of Agriculture</u>	<u>Colorado Department of Agriculture</u>	<u>Total</u>
1996	\$561,766		\$36,600	\$26,600	\$624,966
1995	474,246	\$77,524	36,600	26,600	614,970
1994	410,363	71,500	36,600	26,600	545,063
1993	462,915	70,667	36,600	26,600	596,782
1992	331,699	67,949	26,600	26,600	452,848
1991	<u>295.430</u>	<u>64.587</u>	<u>26,600</u>	<u>26.600</u>	<u>413.217</u>
Total	<u>\$2,536.419</u>	<u>\$352.227</u>	<u>\$199.600</u>	<u>\$159.600</u>	<u>\$3,247.846</u>



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Mountain-Prairie Region

IN REPLY REFER TO:

FWS/R6/FA
CO Audit

MAILING ADDRESS:

Post Office Box 25486
Denver Federal Center
Denver, Colorado 802250486

STREET LOCATION:

134 Union Blvd.
Lakewood, Colorado 80228-1807

6/17/97

Memorandum

To: Assistant Inspector General for Audits, Washington D.C.

From: Regional Director, FWS, Region 6 *Ralph Q. Morgenweck*

Subject: Draft Audit Report on U.S. Fish and Wildlife Service Federal Aid Grants to the State of Colorado for Fiscal Years 1994 and 1995 (Assignment No. C-GR-FWS-030-96)

Based on consultations with the Office of the Inspector General, Office of the Solicitor, and Colorado Division of Wildlife staff, the following plan of action has been developed to address the recommendations contained in the Draft Audit Report referenced above.

I have assigned Mary Gessner, Assistant Regional Director for Federal Aid, as the responsible Fish and Wildlife Service official to address the recommendations that may result from this audit.

The attachments referenced below along with a copy of this letter will be delivered directly to Joe Ansnick, Office of the Inspector General, Lakewood, Colorado.

Questioned Costs

Recommendation #1 - "Initiate action to resolve the questioned costs of \$112,121 (cost exceptions of \$108,389, and unsupported costs of \$3,732)."

Response: I concur with Recommendation #1. The Colorado Division of Wildlife contends that their Indirect Cost Negotiation Agreement with the Office of Inspector General (OIG) includes purchased services (contract employees), therefore, the negotiated rate was appropriately applied to these services. The Division of Wildlife has compiled documentation (Attachment #1) to support their position and conclusion that the \$108,389 are not cost exceptions, and that \$3,732 are not unsupported costs. I request that the OIG review this additional information to determine the validity of the Division of Wildlife's response to Recommendation #1.

License Revenues
Leased Property

Recommendation #2 - "Require the Division of Wildlife to provide adequate control and oversight of its leased properties."

Response: I concur with Recommendation #2.

Background - The Division of Wildlife agrees (Attachment #2) that it is both appropriate and required under the statutes and rules and regulations of both the State of Colorado and the Federal Aid programs that adequate control and oversight of its leased properties be maintained by the Division of Wildlife. The Service also concurs with the recommendation. The Division of Wildlife and the Service agree that this recommendation applies to all leases, rights-of-way, easements, special use agreements, and other such arrangements that provide for non-Division of Wildlife use of property. Because of the various situations, lessees, and types of agreements involved, implementing this recommendation requires that a process be developed to accommodate this complexity. Also, since Recommendation #3 applies to the same properties, the process should be consolidated to effectively and efficiently address both recommendations. A process has been developed that will address all of the properties by April 1, 2002. The same process will be used to ensure "new leases" will be under the control and oversight of the Division of Wildlife. The extended time period is necessary to obtain appraisals of property if the property is exchanged or disposed of, to complete legal transactions, to negotiate agreements, and to address the more than 300 properties involved.

Resolution: The process and schedule outlined in Attachment #3 will be followed to resolve the control and oversight issues associated with each existing lease. Initially, emphasis will be placed on resolving the control/oversight of the properties leased to the Colorado Division of Parks and Outdoor Recreation (DPOR). The nine leases with DPOR identified in Appendix #3 of the Audit Report will be addressed first followed by the remaining leases with DPOR. Since some time will lapse between initiation of the process and implementation of a final resolution (land exchange, renegotiated agreement or other action), a Letter of Agreement (Attachment #4) between the Division of Wildlife and DPOR providing the Division of Wildlife with oversight and adequate control has been signed for the interim period until the propriety of such leases can be determined and addressed using the process outlined in Attachment #3.

The systematic review of all the leased properties as outlined in Attachment #3 and implementation of subsequent corrective measures will be completed by April 1, 2002.

Recommendation #3 - "Determine whether current uses of the leased properties serve fish and wildlife program purposes and require the Division of Wildlife to terminate the leases and reinstate the properties as wildlife areas or obtain equitable compensation for land uses that do not serve fish or wildlife purposes."

Response: I concur with the findings, but the recommendation as written appears to be inconsistent with the regulations. Where the State is leasing lands for non-fish and wildlife program purposes, a diversion may exist. When a diversion occurs according to 50 CFR 80.4, the State must either restore the assets acquired with license revenues or the current market value of assets diverted must be returned and properly made available for use for the administration of the State fish and wildlife agency. As currently written, Recommendation #3 implies that obtaining equitable compensation for land uses that do not serve fish or wildlife purposes is an appropriate remedy for the diversion. Neither I nor the Solicitor could find any regulations to support this statement. I request that the OIG review their findings and consider rewriting this recommendation to be consistent with the requirements in 50 CFR 80.4.

Resolution: The process and schedule outlined by the State in Attachment #3 will be followed to resolve the proper use issues associated with each lease (includes rights-of-way, easements, special use agreements, etc.). Each lease is expected to involve different conditions (Federal Aid, non-Federal Aid, size of leased area, uneconomic remnant, wildlife values, habitat types, etc.) and, therefore, must be handled on a case-by-case basis. As a result of the lease evaluation process, some of the leases may be terminated, renegotiated, or the property disposed of through exchange or sale. The Service will be involved to the extent necessary to ensure that final actions taken by the Division of Wildlife are consistent with applicable Federal Aid rules and regulations. If, as a result of the review outlined in Attachment #3, the Division of Wildlife decides to dispose of any property, that disposition will be conducted in accordance with 50 CFR 80.4.

The resolution of Recommendation #3 will be completed by April 1, 2002.

Income From Land Purchased With License Revenues

Recommendation #4 - "Determine the amount of entrance or use fees that were collected during Fiscal Years 1991 through 1996 at license revenue-funded properties leased to other State and Private organizations and ensure that these revenues and all future entrance and use fees attributable to the Division of Wildlife's proportional interest in the properties are remitted to the Division of Wildlife and used for fish and wildlife program purposes."

Response: The Division of Wildlife will determine under which leases entrance fees or use fees have been charged to access property acquired with license revenues since 1991. By November 30, 1997, the Division of Wildlife will provide to the Service, a detailed analysis of revenues and expenditures by facility. This analysis will specifically identify expenditures associated with fish and wildlife management programs, revenue generated at each site by entrance/use fees, the proportional interest of the Division of Wildlife in the ownership of each parcel of land, the proportional ownership of the Division of Wildlife in the improvements made to each parcel of land, and other relevant factors. Within 30 days of receipt of this information, I will refer this issue to the Division of Federal Aid

in Washington, D.C. for inclusion in a National policy clarification process that has been initiated to address audit findings that have National policy implications. This process calls for National (Fish and Wildlife Service and State) review of specific policy interpretations within a 60-day period. Final resolution of this issue is deferred until March 30, 1998, pending this National review.

The State's comments regarding Recommendation #4 are in Attachment #5.

Control and Reimbursement for Damage Caused by Predatory Animals

Recommendation #5 - "Request opinions from the Office of the Solicitor on the propriety of the State's use of license revenues for the control of and reimbursement for damage caused by predatory or depredating animals and related activities . . ."

Response: I concur with this recommendation. On July 11, 1997, I requested an opinion on this issue from the Office of the Solicitor, Rocky Mountain Region. An opinion was issued by that office on September 23, 1997. Following a meeting with the Division of Federal Aid and Division of Wildlife, the Regional Solicitor's Office issued an informal supplemental opinion on October 7, 1997. It is my opinion that this issue requires further review by the Service and the Office of the Solicitor in Washington, D.C. A National committee consisting of representatives of the Service's Division of Federal Aid and the States (represented by the Animal Damage and Fur Resources Committees of the International Association of Fish and Wildlife Agencies) has been formed to review and recommend changes to Federal Aid regulations and policies concerning animal damage management issues. I will refer this issue to that committee. Resolution of this issue is deferred until December 31, 1998, pending this National review.

The State's response to Recommendation #5 is in Attachment #6.

Recommendation #6 - "Require the State to reimburse the Division of Wildlife for the proceeds from the sale of bear and lion hides (\$2,200) that were given to the State's Department of Agriculture."

Response: I concur with Recommendation #6, however, the final resolution of this recommendation will be tied to the resolution of Recommendation #5. See Attachment #7 for the State's comments on this recommendation.

Weed Control

Recommendation #5 - "Request opinions from the Office of the Solicitor on the propriety of the State's use of license revenues for weed control."

Response: I concur with the portion of Recommendation #5 that refers to weed control. Based on an informal opinion received from the Office of the Solicitor, dated October 7, 1997, I have concluded that it is proper for the State to use license revenues for noxious weed control, unless specific weed eradication efforts would have a serious adverse impact on wildlife resources. The Solicitor states;

"Participating in a local weed control district is mandatory for all state agency landowners, because without their participation, the noxious weed control efforts in the state would not be as successful. Noxious weeds in almost all cases, are just as damaging to wildlife and the plants they depend on as they are to domestic livestock and crops." I concur with the Solicitor's opinion.

Administrative Controls
Excess Property

Recommendation #7 - "Require the State to account for income from the sale of the Division of Wildlife's surplus property and to remit such income to the Division."

Response: The Division of Wildlife has provided additional documentation regarding State surplus property procedures and Division of Wildlife property that was declared surplus property during the period covered by the audit. I request that the OIG review this information provided in Attachment #8 to determine the validity of the Division of Wildlife's response.

Payroll Expenses

Recommendation #8 - "Require the Division of Wildlife to ensure that the Federal Aid Coordinator's time sheets are prepared and submitted in a timely manner."

Response: I concur with Recommendation #8.

Resolution: The Division of Wildlife has established the requirement that the Federal Aid Coordinator submit monthly time distribution reports to his supervisor effective January 1, 1997. These reports are due-by the third working day of the following month as required by State Fiscal Rule. This requirement is documented in Item #1 of the signed annual Performance Planning and Appraisal Form for FY 98 (Attachment #9) for the Federal Aid Coordinator (official State working title for this position is Planning and Grants Administrator IV). The Support Services Branch Administrator of the Division of Wildlife will monitor compliance with this requirement.

[ATTACHMENTS NOT INCLUDED BY OFFICE OF INSPECTOR GENERAL.]

Attachments

cc: Audit Liaison Officer
FWS, Washington D.C.
OIG, Lakewood, CO

STATUS OF AUDIT REPORT RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
1 and 7	Unresolved.	Provide a response to the revised recommendation. If concurrence is indicated, provide a plan identifying actions to be taken, including target dates and titles of officials responsible for implementation. If nonconcurrence is indicated, provide reasons for the nonconcurrence.
2, 3, and 4	Resolved; not implemented.	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.
5 and 6	Unresolved.	Reconsider the recommendations, and provide plans identifying actions to be taken, including target dates and titles of officials responsible for implementation.
8	Implemented.	No further response is required.

**ILLEGAL OR WASTEFUL ACTIVITIES
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1849 C Street, N.W.
Mail Stop 5341
Washington, D.C. 20240

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North Pacific Region
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